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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,809	09/11/2003	Anthony J. Baerlocher	0112300-1629	7061

7590  
Bell, Boyd & Lloyd LLC  
P.O. Box 1135  
Chicago, IL 60690-1135

06/05/2007

EXAMINER
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PANDYA, SUNIT

ART UNIT	PAPER NUMBER
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3714

MAIL DATE	DELIVERY MODE
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06/05/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/660,809	<b>Applicant(s)</b> BAERLOCHER, ANTHONY J.	
	<b>Examiner</b> Sunit Pandya	<b>Art Unit</b> 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 March 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) 22-26 and 47-53 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 and 27-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/1/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Oath/Declaration***

Acknowledgement is made of applicant's Oath/Declaration meets standard required by 35 U.S.C 25 & 115.

### ***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on 11/1/2004 is acknowledged. The submission is in compliance with the provisions of 37 CFR 1.97 & 1.98. Accordingly, the examiner has considered the information disclosure statement.

### ***Election/Restrictions***

Applicant's election with traverse of Group I, claims 1-21, 27-46, in the reply filed March 8, 2007 is acknowledged. The traversal is on the ground(s) that the claims of the present invention would appear to be part of overlapping search area, and thus the search and examination of the entire application would not place a serious burden on the Examiner. This is not found persuasive because the groups originally presented in the restriction of the original, would not be part of overlapping search area, but in fact would require distinct searches, thus putting a serious burden on the Examiner. The requirement is still deemed proper.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 9-20, 27-31, 34-36 & 39-43 are rejected under 35 U.S.C. 102(b) as being anticipated by Anderson et al. (US Patent 6,428,412).

Claims 1 & 27: Anderson discloses of a game operable upon a wager by a player (col. 1: 50-55), with multiple selections in the game, wherein atleast one of the pick of the selection is based on the amount of wager in the game (col. 2: 55-65, wherein the player is allowed to select paylines, where the paylines are dependent of the amount wagered), and the outcome associated with the wager in the game (col. 2: 55-5). Anderson also discloses of display device adapted to provide an award to the player based on the outcome (figure 4).

Claims 2, 13, 28 & 40: Anderson discloses the game wherein the number of picks of the selection is based on the number of credit wagered per pay line (col. 2: 55-65 & 3: 22-35)

Claims 3 & 29: Anderson discloses of the game machine having an outcome based on the amount of wager in the game (col. 3: 56-66, wherein the paylines are dependent of wagered amount and the outcome is dependent of paylines)

Claims 4 & 30: Anderson discloses of the game machine wherein the selection outcome includes an activation of a secondary display device (figure 1, #13, and col. 4: 13-16).

Claims 5 & 31: Anderson discloses of the game machine wherein the secondary display includes a symbol generator (col. 4: 66-12).

Claims 9, 16 & 34: Anderson discloses of the game machine, which includes a plurality of reels (col. 2: 49-53).

Claims 10-11, 17, 35-36 & 42: Anderson discloses of the game machine wherein the activation of the secondary display device is made if a designated wager is made (col. 4: 12-18, wherein if the bonus trigger symbols must be on an active payline to enter the bonus round, and to activate maximum paylines, a maximum wager would be required).

Claims 12 & 39: Anderson discloses of the game machine wherein a base game is operable upon a wager by a player (col. 1: 50-55), and a bonus game initiated by a trigger event (col. 4: 12-18). Anderson also discloses multiple selections in the game, wherein atleast one of the pick of the selection is based on the amount of wager in the game (col. 2: 55-65, wherein the player is allowed to select paylines, where the paylines are dependent of the amount wagered), and the outcome associated with the wager in the game (col. 2: 55-5). Anderson also discloses of display device adapted to provide an award to the player based on the outcome (figure 4).

Claims 14 & 41: Anderson discloses of the game machine, which includes a plurality of awards, wherein the awards are associated with one of the plurality of selection outcome (col. 3: 25-35).

Claim 15: Anderson discloses of the game machine wherein the player receives only a regular bonus if wagers are less than predetermined (col. 3: 6-22)

Claim 18: Anderson discloses of the game machine wherein a generation of a specific symbol combination would result in a jackpot award (col. 7: 25-46, wherein Anderson allows for modification such as poker which would allow for a jackpot upon obtaining a specific combination).

Claims 19-20 & 43: Anderson discloses of the game machine wherein a modifier is associated with the winnings, wherein the modifier is a multiplier (col. 4: 57-65).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-8, 21, 32-33 & 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al. as applied to claim 1-5, 9-20 & 27-46 above, and further in view of Cohen et al. (US Patent 5,231,568).

Claims 6, 7, 21, 32-33 & 44: Anderson substantially teaches all of the limitation as claimed however fails to teach of a symbol generated by a symbol generator is a product award symbol. Cohen teaches of a gaming machine wherein as a prize, the machine permits the patrons to obtain as a prize the product of service whose representations match the game symbols generated (abstract). It would have been obvious to one with ordinary skill in the art at the time of the invention to have

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modified the gaming machine taught by Anderson to award product as a prize to promote certain products or to offer more attractive prizes to the players (col. 1: 10-17).

Claim 8: Cohen teaches that if less than the predetermined numbers of product award symbols are generated, a different award is provided to the player (col. 2: 42-55).

Claims 37-38 & 45-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al. as applied to claim 1-5, 9-20 & 27-46 above, and further in view of Kamille (US Patent 5,855,514).

Claims 37-38 & 45-46: Anderson substantially teaches all of the limitation as claimed however fails to teach of a providing the game through a data network such as Internet. Kamille teaches of a gaming machine, which could be a slot or game machine of a computer network video game (e.g. Internet, world wide web etc., col. 5: 35-40). It would be obvious to one with ordinary skill in the art at the time of the invention to have modified Anderson to include a network game, thus giving the player ability to play from different locations.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See attached Notice of References Cited page.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sunit Pandya whose telephone number is 571-272-2823. The examiner can normally be reached on 8 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SP



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SUPERVISORY PRIMARY EXAMINER